

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Minutes for

COMMISSION MEETING

10:30 a.m., May 19, 2017

Location: Conference Room, SC Commission on Indigent Defense, 1330 Lady Street, Columbia, SC

Members Present: Harry Dest, Hon. Edward Cottingham, Billy Epps, Sen. Gerald Malloy, Yvonne Murray-Boyles, John Nichols, Ashley Pennington, Ashlin Potterfield, Doug Strickler, Walker Willcox,

Members Absent: Hon. Duane Shuler, Rep. Murrell Smith, Jack Howle, Jr.

Staff Present: Hugh Ryan, Herverly Young, Lawrence Brown, Lori Frost, Rodney Grizzle, Bob Dudek, David Alexander

There being a quorum, the Chair called the meeting to order.

Approval of Minutes: A motion was made to approve the minutes of the meeting of March 17, 2017. That motion was seconded and passed by unanimous vote.

Future Meeting Dates:

Legislative Session/Budget Update: Director Ryan discussed the status of the Municipal Proviso and Indigency Screening issues. He stated his intention to meet with the circuit public defenders to review and plan a strategy moving forward with regard to Proviso (117.142), which directs the Commission on Indigent Defense and the Judicial Department (Court Administration Program) to consult with the Summary Court Judges' Association and Clerks of Court Association on screening indigent defense applications, with the Commission on Indigent Defense and Court Administration to make recommendations to the Chairmen of the House Ways and Means, House Judiciary, Senate Finance and Senate Judiciary Committees no later than December 1, 2017, regarding the applicant screening process.

Mr. Ryan informed the Commission that the bill (S. 409) to change collection of the \$40 application fee from the clerk of court offices to the public defender offices had not moved forward. He also informed the Commission that the Municipal Court proviso was renewed for the 2017-2018 fiscal year without opposition from the Municipal Association.

Regarding the FY17-18 Budget, Mr. Ryan reviewed the new plan set forth by the Legislature to fund the State Retirement System, which includes gradual implementation of a 9 percent employee contribution and a 22 percent employer contribution which will affect agency funds and likely public defender offices.

Mr. Ryan informed the Commission that the Agency is on track for a decrease of approximately 2.5 million dollars in fee and fine money since FY 2009-10, and that revenue

from the \$500 Public Defender fee was down significantly. He stated that he has discussed the matter with the public defenders to try to determine why payment of the fee is not being ordered, since it is a non-discretionary item in sentencing. A memo was sent to every judge to remind them that the fee is not discretionary, and it appears that some campaign is needed to continue to remind the courts that the fee must be ordered in sentencing.

Public Defender Training Update: Mr. Brown informed the Commission that the Public Defender Investigator Association Conference organized by Pat Keifer from York County was held March 23-24 in North Myrtle Beach. Public Defense 103 was held May 1, 2 and 3 in Greenville with about 40 participants. The training was well-received by the participants, but it appears that some improvement can be made to the curriculum. Several of the PD103 faculty members have volunteered to assist with that effort. The first basic Juvenile Defender Training in coordination with the Children's Law Center was held in Columbia on April 7 with 14 juvenile public defenders from across the state participating. The training received excellent reviews from the participants. Because several attorneys were unable to attend and because of the Commission's desire to explore expanding training to include 608 attorneys, Mr. Brown informed the Commission that plans were to explore interest in repeating the first program for those attorneys before proceeding to additional seminars.

Rule 608 Contracts: Director Ryan informed the Commission that the 608 Contract Program continues to be successful and that most participating attorneys were re-applying for the upcoming year. Efforts were still underway to fill available spots in a couple of counties where fewer than the needed number of attorneys had applied.

Charleston School of Law Extern Program Update: Mr. Young informed the Commission that the program, which provides an opportunity for law students to learn about the practice of criminal defense in community-based settings through public defender offices, would be starting up in two weeks and that five (5) students had been placed in Berkeley, Dorchester, Hampton, Pickens and Aiken Counties.

Appellate Division Update: Robert Dudek, Chief Appellate Attorney provided an update on case statistics and staff changes within the Office of Appellate Defense for the previous fiscal year. (Written update attached as Attachment "A")

David Alexander briefed the Commission on the landmark case of Jeffrey Allen Chapman, in which the SC Supreme Court recognized a constitutional right to effective assistance of counsel in sexually violent predator cases and established habeas corpus as the appropriate forum to assert that right. Mr. Alexander, Mr. Dudek, Director Ryan and Mr. Young along with the Attorney General's Office are now working to draft a proposed order for adoption by the Court to establish procedure for filing of those cases.

New Business:

Circuit Public Defender Nomination, 6th Circuit: Mr. Ryan informed the Commission that the nominating committee recommended that Michael H. Lifsey be reappointed for another four-

year term. (Copy of Nomination Letter attached as Attachment "B") A motion was made to reappoint Michael H. Lifsey for another four-year term as circuit public defender. That motion was seconded and approved by unanimous vote. (Mr. Lifsey's new term commences as of the date of this vote.)

Executive Session: None

Next Meeting Date: September 8 or September 15, 2017 were set tentatively as possible dates for the next meeting, with the Director to make a final determination.

There being no further business, a motion to adjourn was made, seconded and passed.

Respectfully submitted,

Lawrence Brown
Deputy General Counsel